

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application

Applicant(s): Z. Liu et al.
Docket No.: YOR920020238US1
Serial No.: 10/537,590
Filing Date: June 6, 2005
Group: 2473
Examiner: Kenan Cehic

Title: Maximum Lifetime Routing in Wireless Ad-Hoc Networks

COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The following remarks are submitted in response to the Examiner's Statement of Reasons for Allowance included in the Notice of Allowability dated January 8, 2010 in the above-identified application.

REMARKS

Applicants have reviewed the Examiner's Statement of Reasons for Allowance (hereinafter "Statement") given on pages 3-4 of the January 8, 2010 Notice of Allowability. To the extent that the Statement attempts to characterize the cited references in a manner inconsistent with prior responses filed by Applicants, the Statement is respectfully traversed.

Moreover, in the Interview Summary included in the Notice of Allowance, the Examiner writes that claim 38 "has been amended to recite a 'non-transitory, tangible computer readable medium' in order to for [sic] the claim to qualify as statutory subject matter." The terms "non-transitory" and "tangible" were included solely to comply with the Examiner's subjective belief that a claim must include these specific words in order to recite patentable subject matter.

As discussed during the Interview, the Examiner's belief is based on the following portion of page 4 of the "Interim Examination Instructions For Evaluating Subject Matter Eligibility Under 35 U.S.C. § 101" issued on August 22, 2009: "As another example, a claim to a non-transitory, tangible computer readable storage medium *per se* that possesses structural limitations under the broadest reasonable interpretation standard to qualify as a manufacture would be patent-eligible subject matter." (emphasis in original)

Applicants note that the Federal Circuit recently allowed a claim to "a storage medium holding the resulting signals" while rejecting a claim which "seek to cover the resulting encoded signals *themselves*." *In re Nuijten*, 500 F.3d 1346, 1348, 84 USPQ2d 1495, 1498 (Fed. Cir. 2007) (emphasis in original). More particularly, "Nuijten's allowed Claim 15 is directed to '[a] storage medium having stored thereon a signal with embedded supplemental data,'" and does not include the terms "tangible" or "non-transitory." *Id.*

In view of the foregoing, Applicants respectfully submit that the words "tangible" and "non-transitory" should in no way be construed as limiting the scope of claim 38 other than by clarifying that the claim encompasses only statutory subject matter. Embodiments which fall within the scope of claim 38 include, but are not limited to, the "recordable-type media" described in the present specification at page 7, lines 16-18, and the "storage media" described in the present specification at page 7, lines 22-25.

Applicants respectfully request that the above comments be made of record and placed into the application file pursuant to 37 CFR 1.104(e).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'David E. Shifren', written over a horizontal line.

Date: January 21, 2010

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